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FACSIMILE COVER SHEET

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Our Ref: 124-786Your Ref: SN 09/622,405Date: May 20, 2004

TO:	<u>Board of Patent Appeals and Interferences</u>
FIRM:	<u>U.S. Patent and Trademark Office</u>
SUBJECT:	<u>USSN 09/622,405; Appeal #2004-0196</u>
FACSIMILE NO.:	<u>(703) 308-6199</u>
FROM:	<u>Stanley C. Spooner</u>

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Kristen M. McGee
FACSIMILE OPERATOR

ATTACHMENT: ***Official POST-HEARING SUPPLEMENTAL BRIEF FOR THE
CORRECTION OF THE RECORD***

MESSAGE:

*reviewed
Judge Jerry Smith*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences**

In re Patent Application of

Appeal No.: 2004-0196

GREENAWAY et al

Atty. Ref.: 124-786

Serial No. 09/622,405

Group: 2872

Filed: August 17, 2000

Examiner: A. Amari

For: THREE DIMENSIONAL IMAGING SYSTEM

* * * * *

May 20, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**POST-HEARING SUPPLEMENTAL BRIEF
FOR THE CORRECTION OF THE RECORD**

During the Oral Hearing conducted at the Board of Patent Appeals and Interferences on May 20, 2004, the undersigned counsel of record represented that he thought the issue of the Kubo reference (which teaches a "quadric function" at column 4, line 59) being different from a grating "distorted according to a quadratic function" was pointed out in a response to an earlier Official Action.

Appellants' representative has subsequently checked the record and found that there was no discussion of any distinction between quadratic and quadric, and thus the recollection expressed in the Oral Hearing this morning was incorrect and the undersigned regrets this memory failure.

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However, appellants enclose a copy of page 962 from *Webster's Ninth New Collegiate Dictionary* which includes the definitions of both quadratic ("involving terms of the second degree at most") and quadric (relating to a surface "used where there are more than two variables"). While one appears to be related to a surface and the other related to a polynomial, it may well be that those of ordinary skill in the art might consider a quadric function to be the same or synonymous with a quadratic function.

While appellants have previously considered this issue, it is noted that the Kubo reference was distinguished on the basis that it suggests only a single object plane as shown on the cover of the patent and applies this teaching to an autofocus system. Thus, even if Kubo taught the use of a hologram plate which has a "quadric function towards the periphery" and a linear pattern elsewhere which is uniformly constant, there is no disclosure that such functions as a diffraction grating which is distorted in accordance with a quadratic function or that the use of such a grating would permit images from different object planes to be displayed in the claimed "separated in a direction having a non-zero component perpendicular to the optical axis."

In summary, appellants erroneously indicated that the distinction between quadric and quadratic was previously discussed on the record in this case. However, there does appear to be a dictionary definition distinction between the two terms – one referring to a polynomial and the other referring to a surface. However, even if the terms are synonymous, there is no disclosure in Kubo of a grating which is distorted in accordance with a quadratic function. Indeed, if Kubo contains such a disclosure, it would utilize

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two different object planes to provide the two spatially separated images in Figure 2, and this is certainly not disclosed or discussed in the Kubo reference.

Consideration of this post-hearing Brief and the Correction of the Record as noted above is respectfully requested by the Board of Patent Appeals and Interferences.

Respectfully submitted,

NIXON & VANDERHYE P.C.

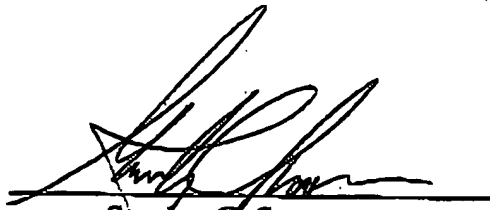
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